



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

KAYE KIP OWEN MD PA
4865 NORTH MCCOLL
MCALLEN TX 78504

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative Box

Box Number 54

MFDR Tracking Number

M4-12-0532-01

MFDR Date Received

OCTOBER 18, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The claim was denied stating 'Prior authorization was not received.' Due to the injury and urgency of the injury the surgery was performed as an emergency surgery."

Amount in Dispute: \$2500.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "With its appeals, the requestor has stated '...Due to the injury and urgency of the injury the surgery was performed an an emergency surgery.'...In the very next sentence the requestor says, 'Dr. Owen made a decision for the care of the patient and performed surgery as a medical necessity...' The problem with is the operative report does not document an emergency nor does the requestor provide any documentation to support its assertion the surgery was an emergency." "Dr. Owen states the surgery should be performed at the earliest opportunity and timely, and cites to the American Academy of Orthopedic Surgeons for this. Earliest and timely is not necessarily and emergency. What is more, the Texas Workers' Compensation treatment guideline of the elbow, ODG, says that a ruptured biceps tendon should be repaired within 2 to 3 weeks of injury...That would have been ample time for the requestor to have sought preauthorization."

Response Submitted by: Texas Mutual Insurance Co., 6210 E. Hwy 290, Austin, TX 78723

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 25, 2011	CPT Code 24342	\$2500.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.

3. 28 Texas Administrative Code §133.2, effective July 27, 2008, 33 TexReg 5701, defines a medical emergency.
4. 28 Texas Administrative Code §134.600, requires preauthorization for specific treatments and services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated March 11, 2011

- W1-Workers compensation state fee schedule adjustment.
- CAC-16-Claim/service lacks information which is needed for adjudication at least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- CAC-197-Precertification/Authorization/Notification absent.
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 899-Documentation and file review does not support an emergency in accordance with rule 133.2.
- 930-Pre-authorization required, reimbursement denied.

Explanation of benefits dated April 19, 2011

- Please review date of service billed. OP report attached notes – date of operation 1/25/11.
- CAC-16-Claim/service lacks information which is needed for adjudication at least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- CAC-197-Precertification/Authorization/Notification absent.
- CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 891-No additional payment after reconsideration.
- 930-Pre-authorization required, reimbursement denied.

Explanation of benefits dated June 7, 2011

- Please review date of service billed. OP report attached notes – date of operation 1/25/11.
- CAC-16-Claim/service lacks information which is needed for adjudication at least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- CAC-18-Duplicate claim/service.
- CAC-197-Precertification/Authorization/Notification absent.
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 878-appeal (Request for Reconsideration) previously processed refer to rule 133.250(H).
- 930-Pre-authorization required, reimbursement denied.

Explanation of benefits dated September 14, 2011

- Please review date of service billed. OP report attached notes – date of operation 1/25/11.
- CAC-16-Claim/service lacks information which is needed for adjudication at least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- CAC-18-Duplicate claim/service.
- CAC-197-Precertification/Authorization/Notification absent.
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 878-appeal (Request for Reconsideration) previously processed refer to rule 133.250(H).
- 930-Pre-authorization required, reimbursement denied.
- CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- CAC-29-The time limit for filing has expired.
- 731-Per 133.20 provider shall not submit a medical bill later than the 95th day after the date the service, for services on or after 9/1/05.
- 891-No additional payment after reconsideration.

Issues

1. Did the requestor support disputed operation was on an emergency basis?
2. Did the disputed service require preauthorization?
3. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied reimbursement for the disputed outpatient surgery, code 24342, based upon "CAC-197-Precertification/Authorization/Notification absent," and "930-Pre-authorization required, reimbursement denied."

The requestor states in the position summary that "Due to the injury and urgency of the injury the surgery was performed as an emergency surgery."

The respondent states in the position summary that "The problem with is the operative report does not document an emergency nor does the requestor provide any documentation to support its assertion the surgery was an emergency." "Dr. Owen states the surgery should be performed at the earliest opportunity and timely, and cites to the American Academy of Orthopedic Surgeons for this. Earliest and timely is not necessarily an emergency. What is more, the Texas Workers' Compensation treatment guideline of the elbow, ODG, says that a ruptured biceps tendon should be repaired within 2 to 3 weeks of injury...That would have been ample time for the requestor to have sought preauthorization."

28 Texas Administrative Code §134.600 (c)(1)(A), states "The carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: (A)an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions);

28 Texas Administrative Code §133.2 (3) defines "Emergency--Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

- (i) placing the patient's health or bodily functions in serious jeopardy, or
- (ii) serious dysfunction of any body organ or part."

Dr. Owen wrote in the March 28, 2011 letter that "I was contacted on Friday 21 January 2011 by his treating physician. The patient was injured that day and his treating physician correctly diagnosed a rupture of the distal bicep tendon. An MRI scan was ordered immediately to confirm the diagnosis and the extent of injury. The patient was then evaluated in my clinic on Monday, January 24. At that time it was my clinical judgment to proceed to surgical repair of the distal bicep tendon rupture with the patient's consent at the earliest opportunity."

The Division concludes that the requestor did not support position that the outpatient surgery was an emergency as defined by 28 Texas Administrative Code §133.2 (3); therefore, the disputed service required preauthorization.

2. The insurance carrier denied reimbursement for the disputed psychological services, coded 96101, based upon "CAC-197-Precertification/Authorization/Notification absent," and "930-Pre-authorization required, reimbursement denied."

28 Texas Administrative Code §134.600 (c)(1)(A) and (B), states B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care."

28 Texas Administrative Code §134.600(p)(2) states "Non-emergency health care requiring preauthorization includes: (2) outpatient surgical or ambulatory surgical services as defined in subsection (a) of this section."

The requestor did not submit documentation to support that preauthorization was sought or obtained for the outpatient surgery; therefore, the insurance carrier's denial based upon reason codes CAC-197 and 930 is supported.

3. The Division finds that the requestor did not support that the disputed outpatient surgery was an emergency as defined in 28 Texas Administrative Code §133.2 (3). Furthermore, the requestor did not obtain preauthorization as required by 28 Texas Administrative Code §134.600(p)(2). As a result, reimbursement is not recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that the requestor failed to support its position that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	6/29/2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.